REMARKS

Claims 1-49 are currently pending in the subject application and are presently under consideration. Claims 1, 7-11, 14, 19-23, 27-32, 35, 36, 43, 45 and 48 have been amended as shown at pp. 2-10 of the Reply. The amendments made herein do not necessitate an additional search and are believed to place the subject application in better condition for appeal. More specifically, only the preambles of claims 1, 10, 14, 21, 23, 29, 30, 31, 32, and 35 have been amended, and claims 7, 8, 9, 11, 19, 20, 22, 27, 28, 43, 45, and 48 have only been amended semantically to place the claims in better condition for appeal. Accordingly, as an additional search is not necessitated by these amendments, entry thereof is respectfully requested.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-35 Under 35 U.S.C. §101

Claims 1-35 stand rejected under 35 U.S.C. §101 as being directed towards non-statutory subject matter. Withdrawal of this rejection is respectfully requested for at least the following reasons. Independent claims 1, 14, 23, and 32 have been amended herein to remove references to creating a language neutral representation, and have been further amended herein in accordance with the Examiner's suggestions in the Office Action dated June 22, 2004. Accordingly, withdrawal of this rejection is respectfully requested.

II. Rejection of Claims 1-49 Under 35 U.S.C. §102(e)

Claims 1-49 stand rejected under 35 U.S.C. §102(e) as being anticipated by Bosworth, *et al.* (US 6,738,968). This rejection should be withdrawn for at least the following reasons. Bosworth, *et al.* does not disclose or suggest each and every limitation set forth in the subject claims.

> A single prior art reference anticipates a patent claim only if it ***expressly or inherently describes each and every limitation set forth in the patent claim.*** *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California,* 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The ***identical invention must be shown in as complete detail as is contained in the ... claim.*** *Richardson v. Suzuki Motor Co.,* 868 F.2d

1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicants' claimed invention relates to a language-neutral representation of software code elements and/or to its translation to other code representations. The invention as claimed utilizes an object model – a hierarchy to characterize programmatic constructs – to represent a compile unit that facilitates transformation of a representation of a compile unit arranged according to the object model to one or more languages or language implementations, such as C, C++, or Assembly. In particular, independent claim 1 (and similarly independent claims 14, 23, 32, 36, 40, 41, 43 and 47-48) as amended recite: ***a hierarchical arrangement of program elements that neutrally characterize the compile unit.*** Bosworth, *et al.* fails to teach or suggest these novel aspects of applicants' claimed invention.

Bosworth, *et al.* relates to a system and method for defining and processing data types and in particular type systems used by a compiler and/or runtime environment. In particular, the cited document provides a language neutral representation in relation to compiled code. The invention as claimed in contrast relates to the hierarchical arrangement of program elements that neutrally characterize a compile unit, *e.g.*, the hierarchical arrangement of program elements is in a form that cannot be executed in a runtime environment – uncompiled code.

Moreover, it is submitted that applicant may be his or her own lexicographer as long as the meaning assigned to the term is not repugnant to the term's well-known usage. *In re Hill*, 161 F.2d 367, 73 USPQ 482 (CCPA 1947). Any special meaning assigned to a term "must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention." *Multiform Desiccants Inc. v. Medzam Ltd.*, 133 F.3d 1473, 1477, 45 USPQ2d 1429, 1432 (Fed. Cir. 1998). Applicants' representative therefore contends that the specification provides that a compile unit is a sequence of one or more high-level language grammatical words or phrases that make a portion of a program complete enough to compile (*e.g.*, a compilable unit of code implemented in any form). *See* page 5, lines 18-20. In other words, the compile unit as provided for in the subject claims relates to code that can be compiled *but has as yet to be compiled.* Thus, it is submitted that Bosworth, *et al.* and the invention as claimed are clearly distinguishable on this ground. Accordingly, withdrawal of the rejection of independent claims 1, 14, 23, 32, 36, 40, 41, 43 and 47-48 (and claims that depend there from) is respectfully requested.

CONCLUSION

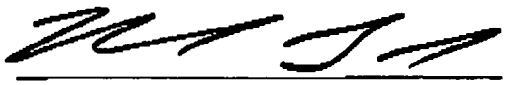
The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP194US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN & TUROCY, LLP



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